

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
ZELLNER

V.

**EDNY # CV-02-cv-95
USCA#05-6309
RELATED CASE:
JUDGE: TOWNES**

STATE OF NY ET AL
-----X

RECORD

Index Prepared By: MARY ANN MCGEE

**Address: EASTERN DISTRICT OF
NEW YORK**

Telephone No.: (718) 613-2310

The document numbers circled on the following pages with the original papers, constitute part of this record on appeal; the other part of this record on appeal consists of electronically filed documents . The documents with underlined document numbers may be found on our web site <http://www.nyed.uscourts.gov>.

APPEAL

**U.S. District Court
Eastern District of New York (Central Islip)
CIVIL DOCKET FOR CASE #: 2:02-cv-00095-SLT
Internal Use Only**

Zellner v. State of New York et al
Assigned to: Judge Sandra L. Townes
Demand: \$60,000,000
Cause: 42:1983 Civil Rights Act

Date Filed: 01/07/2002
Date Terminated: 01/26/2005
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

John Robert Zellner

represented by **Frederick K. Brewington**
Law Offices of Frederick K.
Brewington
50 Clinton Street, Suite 501
Hempstead, NY 11550
516-489-6959
Fax: 516-489-6958
Email: lawoffices.fkb@verizon.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

State of New York
TERMINATED: 02/27/2003

represented by **Anne C. Leahy**
New York State Attorney General's
Office
300 Motor Parkway
Suite 205
Hauppauge, NY 11788
631-231-2183
Fax: 631-435-4757
Email: anne.leahy@oag.state.ny.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

New York State Police Department
TERMINATED: 02/27/2003

represented by **Anne C. Leahy**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Robert G. Summerlin
Trooper

represented by **Anne C. Leahey**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Major Weber

represented by **Anne C. Leahey**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

John Does 1-10

represented by **Anne C. Leahey**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/07/2002	<u>31</u>	Complaint filed and summons issued as to defendant(s) John Does 1-10, New York State Police Department, State of New York, Robert G. Summerlin, Major Weber. Filing fee \$150.00. Receipt number: 5008. Jury trial demanded.. Filed by Frederick K. Brewington on behalf of John Robert Zellner. (Attachments: # <u>1</u> Civil Cover Sheet)(Duong, Susan) (Entered: 01/08/2002)
01/31/2002	<u>32</u>	Certificate of Service of the Summons and Complaint on State of NY, Office of the Attorney General left with Bonnie Farone, Asst. Attorney General on 1/31/02; service of Summons and complaint on NYSPD at 7140 Republic Airport, E. Farmingdale, NY, Trooper Robert G. Summerlin, Major Weber, and John Does by service of NYSPD and left with 1st Sgt. Yacovone on 1/31/02 and served at 7140 Republic Airport, E. Farmingdale, NY filed by Frederick K. Brewington on behalf of John Robert Zellner. Answer due by 2/20/2002. (Montero, Edher) (Entered: 02/07/2002)
02/11/2002	<u>33</u>	Certificate of Service of the Summons and complaint upon Robert G. Summerlin filed by Frederick K. Brewington on behalf of John Robert Zellner. (Mierzejewski, Elizabeth) (Entered: 02/11/2002)
03/05/2002	<u>34</u>	Letter dated 2/26/02 by Anne C. Leahey on behalf of deflt. setting down the briefing schedule on motion to dismiss as follows: motion to be served by 3/22/02; plaintiff's answer by 4/26/02; deflt's reply by 5/17/02 as well as filing all papers on this same date. (Montero, Edher) (Entered: 03/15/2002)

03/05/2002	3	Order; endorsed on doc #4. Briefing schedule on motion to dismiss so ordered by Judge Leonard D. Wexler on 3/5/02. c/m (Montero, Edher) (Entered: 03/15/2002)
03/22/2002	35	Letter dated 3/21/02 filed by Anne C. Leahy on behalf of defts. RE: By this letter defts. respectfully request that discovery be stayed in this action pending a decision on deft's motion to dismiss which is returnable on 5/17/02.(Montero, Edher) (Entered: 04/03/2002)
03/25/2002	36	Letter dated 3/23/02 filed by Frederick K. Brewington on behalf of plaintiff in response and in opposition to deft's request in their letter dated 3/21/02. (Montero, Edher) (Entered: 04/03/2002)
03/29/2002	37	Letter by Keith Tashima, Law Clerk to Mag/Judge Arlene Lindsay dated 3/29/02. RE: enclosing their original letter dated 3/28/02. Specifically, the papers constitute a reply in connection with your recent letter application. Replies are not permitted without permission of the Court. (Montero, Edher) (Entered: 04/03/2002)
04/02/2002	3	Endorsed Order: An initial conference is hereby scheduled for 8/28/02 at 2:00 p.m. (signed by Mag/Judge Arlene R. Lindsay on 4/2/02). c/m eod #6 (Montero, Edher) (Entered: 04/03/2002)
04/24/2002	38	Letter dtd 4/22/02 from Anne C. Leahey to Judge Lindsay re: Request for permission to reply to a letter from plaintiff's counsel resisting defendants application for a stay of discovery. The reason for this request is that when the facts and issues are fully understood, it is clear that discovery should be stayed, inasmuch as the Court lacks jurisdiction over any of the named parties. (Mierzejewski, Elizabeth) (Entered: 04/25/2002)
04/29/2002	39	Letter dated 4/26/02 by Frederick K. Brewington on behalf of plaintiff. RE: enclosing Memo of Law in Opposition to the Motion by defts to Dismiss the Complaint and Cross Motion for an Ext. of Time to Serve individual defts.(Montero, Edher) (Entered: 05/02/2002)
05/10/2002	10	Motion to dismiss <i>the complaint pursuant to Fed. R. Civ. P. Sect. 12(b)(6)</i> . filed by Anne C. Leahey on behalf of John Does 1-10, New York State Police Department, State of New York, Robert G. Summerlin, Major Weber. (Montero, Edher) (Entered: 05/20/2002)
05/10/2002	11	Memorandum in support of <i>Motion to dismiss on behalf of defts.</i> filed by Anne C. Leahey on behalf of John Does 1-10, New York State Police Department, State of New York, Robert G. Summerlin, Major Weber. (Related document(s)[10]) (Montero, Edher) (Entered: 05/20/2002)
05/10/2002	12	Memorandum in opposition to <i>the deft's motion to dismiss.</i> filed by Frederick K. Brewington on behalf of John Robert Zellner. (Montero, Edher) (Entered: 05/20/2002)
05/10/2002	13	Reply memorandum of law in <i>further support of the deft's motion to dismiss.</i> filed by Anne C. Leahey on behalf of John Does 1-10, New York State Police Department, State of New York, Robert G. Summerlin, Major Weber. (Related document(s)[10]) (Montero, Edher) (Entered: 05/20/2002)

		05/20/2002)
08/28/2002	14	Calendar Entry: Before Mag/Judge Arlene R. Lindsay on 8/28/02 at 2:00 p.m., civil cause for initial status conf. All counsel present. Conf. held. The following rulings were made: Parties to submit joint status letter by 9/10/02. So ordered (signed by Mag/Judge Arlene R. Lindsay on 8/28/02) c/f(Montero, Edher) (Entered: 09/05/2002)
09/04/2002	24	Letter from Anne C. Leahey to Peter Ausili regarding writing to inquire whether it is still the Court's desire that the consent order, described above, be drafted by deft. and forwarded to the Court.. (Montero, Edher) (Entered: 02/14/2003)
09/05/2002	23	Letter from Frederick K. Brewington to Judge Wexler dtd. 9/3/02 regarding requesting that the parties be afforded an opportunity to conduct a teleconf. with Chambers to discuss the position of defts with re to their non-disclosure of the addresses of defts for service of process. (Montero, Edher) (Entered: 02/14/2003)
09/11/2002	15	Affidavit of Service of <i>Delroy Roberts</i> for Summons and Complaint served on Robert Summerlin on 9/7/02 filed by Frederick K. Brewington on behalf of John Robert Zellner. Answer due by 9/27/2002. (Montero, Edher) (Entered: 09/12/2002)
09/12/2002	17	Letter dated 9/12/02 to Mag/Judge Lindsay RE: informing the Court of status of case with Judge Wexler. filed by Frederick K. Brewington on behalf of John Robert Zellner. (Montero, Edher) (Entered: 09/18/2002)
09/13/2002	16	SUMMONS Returned Executed by John Robert Zellner. Robert G. Summerlin served on 9/11/2002, answer due 10/1/2002 filed by Frederick K. Brewington on behalf of John Robert Zellner. (Montero, Edher) (Entered: 09/17/2002)
09/16/2002	3	Endorsed Order: Parties to submit joint status letter by 10/17/02, or sooner as appropriate. So ordered. (signed by Mag/Judge Arlene R. Lindsay on 9/16/02) c/f cod #17 (Related document(s)[17]) (Montero, Edher) (Entered: 09/18/2002)
10/18/2002	18	Order: Parties are hereby directed to report, by letter, on the status of this action by 10/28/02. Plaintiff is directed to serve a copy of this order on all parties immediately upon receipt. So ordered. (signed by Mag/Judge Arlene R. Lindsay on 10/18/02) c/f (Montero, Edher) (Entered: 10/24/2002)
10/29/2002	21	Letter from Anne Leahey dated 10/28/02 to Mag/Judge Lindsay. RE: in response to Ct's request that the parties notify of the status of this action.(Montero, Edher) (Entered: 11/07/2002)
10/30/2002	19	Letter from Frederick Brewington on behalf of plaintiff dated 10/28/02. RE: informing the Court of status of case. (Montero, Edher) (Entered: 11/07/2002)

10/30/2002	20	Letter from Anne Leahy dated 10/29/02 to Mag/Judge Arlene Lindsay. RE: this is submitted to supplement letter dated 10/28/02 regarding concentrated efforts to serve deft. Summerlin. (Montero, Edher) (Entered: 11/07/2002)
10/31/2002	21	ENDORSED ORDER: To the extent this letter challenges the jurisdiction of the Court, this issue must be raised before the District Ct. Additionally, this disclosure issue has been previously conferenced with the District Court and should be re-directed to their attention. The parties are to report by 12/18/02 as to the outcome of discussions with the District Court. So ordered. (Signed by Judge Arlene R. Lindsay on 10/31/02. c/f eod #21 (Montero, Edher) (Entered: 11/07/2002)
12/19/2002	22	STATUS REPORT ORDER: By order dated 10/31/02, the parties were directed to report on their discussions with the Dist. Court re: issues of disclosure of address of deft. Weber no later than 12/18/02. The parties failed to do so. Status Report due by 1/6/03. An oral response to this order will not be accepted. So ordered (Signed by Judge Arlene R. Lindsay on 12/19/02) c/f to both parties.(Montero, Edher) (Entered: 12/30/2002)
12/20/2002	26	Letter from Frederick Brewington dtd. 12/20/02 to Mag/Judge Lindsay regarding writing to inform of status of this matter. Deft's motion before Judge Wexler remains pending. (Montero, Edher) (Entered: 02/24/2003)
01/07/2003	25	Letter from Anne C. Leahy dtd. 1/6/03 to Mag/Judge Lindsay regarding providing update regarding the status of discussions with the Dist. Court. (Montero, Edher) (Entered: 02/24/2003)
02/27/2003		(Court only) *** Party New York State Police Department and State of New York terminated. (Montero, Edher) (Entered: 03/03/2003)
03/03/2003	27	ORDER granting in part and denying in part [10] Motion to Dismiss. Defts' Motion to Dismiss is partially granted to the extent that this action be and it is hereby dismissed with prejudice on the merits against defts, State of New York and NYS Police Dept. on the grounds of Eleventh Amendment immunity. Plaintiff's motion for additional time in which to serve the indiv. named defts. is hereby granted to the extent that plaintiff shall have sixty days from the date of the entry of this order in which to serve the individually named defts. The issue of discovery with respect to the whereabouts of the individually named defts. is hereby remanded to Mag/Judge Lindsay. So ordered (Signed by Judge Leonard D. Wexler on 2/27/03) c/m (Montero, Edher) (Entered: 03/03/2003)
03/03/2003	28	Letter application from Frederick K. Brewington dtd. 2/7/03 to Mag/Judge Lindsay Regarding requesting that a conf. be scheduled to discuss a motion to compel discovery. (Montero, Edher) (Entered: 03/05/2003)
03/03/2003	28	ENDORSED ORDER re [28] Letter: Telephone Status Conference to be held on 3/31/03 at 10:00 AM before Magistrate-Judge Arlene R. Lindsay. Plaintiff to initiate the call. So ordered (Signed by Judge Arlene R. Lindsay on 3/3/03) c/f to both parties. eod #28(Montero, Edher) (Entered: 03/05/2003)

		03/05/2003)
03/31/2003	329	Minute Entry: Before Arlene R. Lindsay on 3/31/03 at 10:00 a.m., civil cause for telephone Status Conference. Case called. All counsel present. Conf held. The following rulings were made: Defense counsel is directed to provide plaintiff with the last known address of deft. Weber. Telephone Status Conference to be held on 4/11/03 at 11:00 AM to set a discovery schedule. Plaintiff to initiate the call. So ordered (signed by Mag/Judge Arlene R. Lindsay on 3/31/03) c/f to both parties. (Montero, Edher) (Entered: 04/03/2003)
04/11/2003	330	SCHEDULING ORDER: Final Pretrial Conference set for 10/28/03 10:00 AM before Magistrate-Judge Arlene R. Lindsay. Upon confirming the District Court's availability, the parties are to meet with Judge Wexler at 11:00 a.m. on this same date. Amended Pleadings due by 6/30/03. All Discovery, inclusive of expert discovery, to be concluded by 9/30/03. Joinder of Parties due by 6/30/03. Application for promotion summary judgment conf. to be submitted to the District Court. Motions due by 10/14/03. Proposed Pretrial Order due by 10/28/03. Due to the age of this case, extensions may not be granted. So ordered (Signed by Judge Arlene R. Lindsay on 4/11/03). c/g to plaintiff, c/f to deft.(Montero, Edher) (Entered: 04/16/2003)
04/11/2003	331	Minute Entry Before Lindsay, USMJ., case called for telephone status conference on 4/11/2003. Fred Brewington, atty for plaintiff, Anne Leahey, atty for dft participated. Rulings: Defendant agrees to submit answer and automatic disclosures no later than 5/12/03. SO ORDERED. C/F (Garcia, Maria) (Entered: 04/25/2003)
05/05/2003	332	ANSWER to Complaint filed on behalf of Robert G. Summerlin, Major Weber.(Montero, Edher) (Entered: 05/14/2003)
09/25/2003	333	Letter application by Frederick K. Brewington dtd. 9/24/03 on behalf of plaintiff, to Mag/Judge Arlene R. Lindsay, requesting that the Court schedule a conf. to discuss outstanding discovery issues. (Montero, Edher) (Entered: 10/06/2003)
10/01/2003	334	Letter from Anne C. Leahey dtd. 9/30/03 to Mag/Judge Lindsay, in response to plaintiff's letter motion dtd. 9/24/03. (Montero, Edher) (Entered: 10/06/2003)
10/02/2003	33	ENDORSED ORDER re [33] Letter: Inquiry should be made whether DSP will produce the personnel files for inspection at their Suffolk/Nassau offices. Alternatively, counsel should subpoena the records. SO ORDERED (Signed by Judge Arlene R. Lindsay on 10/2/03) c/f to both parties. cod #34(Montero, Edher) (Entered: 10/06/2003)
10/08/2003	335	Letter application by Frederick k. Brewington on behalf of plaintiff dtd. 10/7/03 to Mag/Judge Lindsay, requesting a 60-day extension of discovery in order to conduct depositions of defts. (Montero, Edher) (Entered: 10/20/2003)

10/08/2003	336	SCHEDULING ORDER: A Final Pretrial Conference set for 1/6/2004 at 10:00 AM before Magistrate-Judge Arlene R. Lindsay. All Discovery, inclusive of expert discovery, to be concluded by 12/8/2003. Application for pre-motion summary judgment conf to be submitted to the Dist. Court by 12/22/2003. Parties to submit a joint pretrial Order to the chambers of the undersigned by 12/29/2003. The parties are advised that further extensions will not be granted. SO ORDERED (Signed by Judge Arlene R. Lindsay on 10/8/03) c/f(Montero, Edher) (Entered: 10/20/2003)
11/26/2003	337	Letter MOTION for Extension of Time to Complete Discovery <i>for another 45 days on consent. Filed</i> by John Robert Zellner. (Montero, Edher) (Entered: 12/05/2003)
12/02/2003	3	ENDORSED ORDER granting [37] Motion for Extension of Time to Complete Discovery. Application granted. The final conf scheduled for 1/6/04 is adjourned to 1/27/04 at 11:00 a.m. The parties are advised that this is the final conference. No further adjournment will be granted. SO ORDERED (Signed by Judge Arlene R. Lindsay on 12/2/03) c/f cod #37 (Montero, Edher) (Entered: 12/05/2003)
12/02/2003	3	Reset Scheduling Order Deadlines: Final Pretrial Conference set for 1/27/2004 at 11:00 AM before Magistrate-Judge Arlene R. Lindsay. (Montero, Edher) (Entered: 12/05/2003)
12/16/2003	338	ORDER: The final conf in the above captioned case has been rescheduled to 2/3/2004 at 2:30 PM before Magistrate-Judge Arlene R. Lindsay. SO ORDERED (Signed by Judge Arlene R. Lindsay on 12/16/03) c/m to plaintiff & deft.(Montero, Edher) (Entered: 01/05/2004)
12/23/2003	339	Letter application by Anne C. Leahey dtd. 12/22/03 to Mag/Judge Lindsay requesting an adjournment of the final conf scheduled for 2/3/04. (Montero, Edher) (Entered: 01/08/2004)
12/30/2003	3	ENDORSED ORDER re [39] Letter: The final conference is rescheduled to 1/30/2004 at 11:30 AM. SO ORDERED (Signed by Judge Arlene R. Lindsay on 12/30/03). c/f eod#39(Montero, Edher) (Entered: 01/08/2004)
01/07/2004	340	Letter MOTION to Adjourn Conference <i>scheduled for 1/30/03 to 2/23/04. Filed</i> by John Robert Zellner. (Montero, Edher) (Entered: 01/13/2004)
01/07/2004	3	Reset Scheduling Order Deadlines: Final Pretrial Conference set for 2/24/2004 10:30 AM before Magistrate-Judge Arlene R. Lindsay. (Montero, Edher) (Entered: 01/13/2004)
01/09/2004	3	ENDORSED ORDER granting [40] Motion to Adjourn Conference: Application granted. The final conference scheduled for 1/30/04 is adjourned to 2/24/04 at 10:30 a.m. SO ORDERED (Signed by Judge Arlene R. Lindsay on 1/9/04) c/f eod #40 (Montero, Edher) (Entered: 01/13/2004)
02/18/2004	341	Letter application by Frederick Brewinton on behalf of plaintiff dtd. 2/18/04 to Judge Lindsay requesting an extension to complete discovery. (Montero, Edher) (Entered: 02/26/2004)

02/19/2004	3	ENDORSED ORDER re [41] Letter: The parties have been outlined that the age of this case would make further adjournments unlikely. Judge Wexler is ready to try this matter and may abrogate the short extension permitted below. The parties are cautioned, therefore that not only will the following schedule not be extended, but the time allotted below is not assured. All Discovery to be completed by 3/19/2004. Pretrial Order due by 3/30/2004. Final conference set for 4/2/2004 at 10:00 AM. SO ORDERED (Signed by Judge Arlene R. Lindsay on 2/19/04) c/f eod #41(Montero, Edher) (Entered: 02/26/2004)
04/01/2004	42	ORDER: The parties have submitted their proposed JPO. After examination of the order, the Court finds that it substantially complies with the requirements of Dist. Judge Wexler. Accordingly, the JPTO is accepted for filing and the action is deemed ready for trial. The action will be tried in accordance with the discretion and the trial calendar of Dist. Judge Wexler. SO ORDERED (Signed by Judge Arlene R. Lindsay on 4/1/04) c/g(Montero, Edher) (Entered: 04/05/2004)
04/01/2004	43	PROPOSED JOINT PRETRIAL ORDER-SO ORDERED (Signed by Judge Arlene R. Lindsay on 4/1/04) c/g(Montero, Edher) (Entered: 04/05/2004)
04/02/2004	3	Judge Arlene R. Lindsay no longer assigned to case pursuant to order dated 4/2/04. (Morabito, Bryan) (Entered: 04/02/2004)
04/02/2004	44	Minute Entry: Before Arlene R. Lindsay on 4/2/04 at 10:00 a.m., civil cause for Final Conference. Case called. Counsel for all parties present. Conf held. The following rulings were made: Case marked ready for trial. The matter is returned to the District Court. SO ORDERED (signed by Mag/Judge Arlene R. Lindsay on 4/2/04) c/f (Montero, Edher) (Entered: 04/05/2004)
05/06/2004	* 45	ORDER: The parties in the above captioned action are directed to appear before the Hon. Leonard D. Wexler, USDJ for Jury Selection on 7/6/2004 at 9:30AM. Jury Trial to commence on 7/7/2004 at 9:30 AM. Adjournment will not be granted. SO ORDERED (Signed by Judge Leonard D. Wexler on 5/6/04). c/m(Montero, Edher) (Entered: 05/19/2004)
08/26/2004	3	Case reassigned to Judge Sandra L. Townes. Judge Leonard D. Wexler no longer assigned to the case. (Bowens, Priscilla) (Entered: 08/26/2004)
09/03/2004	46	SCHEDULING ORDER: Jury Selection and trial adjourned from 11/08/04 to 11/15/04 at 9:00am. Signed by Judge Sandra L. Townes on 09-03-04. (Frullo, Veronica) (Entered: 09/03/2004)
09/03/2004	47	Minute Entry for proceedings held before Sandra L. Townes : Telephone Status Conference held on 9/3/2004. Counsel for all parties present. The Court orders that the final pre-trial telephone conference be set for 11/01/04 at 9:00am. Jury Selection and trial re-set for 11/08/04 at 9:00am. (Frullo, Veronica) (Entered: 09/03/2004)

11/01/2004	③	Minute Entry for proceedings held before Sandra L. Townes : Final Pretrial Conference held on 11/1/2004. Counsel for all sides present by phone. Counsel are directed to file any motions addressing evidentiary issues by 11/10/04. Jury selection and trial ordered to begin on 11/15/04 at 9:30am. (Frullo, Veronica) (Entered: 11/01/2004)
11/10/2004	③48	First MOTION in Limine by all defendants. (Leahey, Anne) (Entered: 11/10/2004)
11/10/2004	③49	AFFIDAVIT of sevice of motion in limine by Thomas Weber and by Robert G. Summerlin. (Leahey, Anne) (Entered: 11/10/2004)
11/11/2004	③50	Proposed Jury Instructions by John Robert Zellner. (Brewington, Frederick) (Entered: 11/11/2004)
11/11/2004	③51	Proposed Voir Dire by John Robert Zellner. (Brewington, Frederick) (Entered: 11/11/2004)
11/11/2004	③52	Proposed Voir Dire by Robert G. Summerlin. (Leahey, Anne) (Entered: 11/11/2004)
11/11/2004	③53	Proposed Jury Instructions by Robert G. Summerlin. (Leahey, Anne) (Entered: 11/11/2004)
11/14/2004	③54	Letter MOTION in Limine by John Robert Zellner. (Brewington, Frederick) (Entered: 11/14/2004)
11/18/2004	③	Minute Entry for proceedings held before Sandra L. Townes : Motion Hearing held on 11/18/2004 re <u>54</u> Letter MOTION in Limine filed by John Robert Zellner, * <u>48</u> First MOTION in Limine filed by State of New York, John Does 1-10, New York State Police Department, Robert G. Summerlin, & Major Weber. Counsel for all sides present. The Court grants in part, denies in part, and reserves on plff's motion in limine, on the record. The Court grants in part and denies in part def's motion in limine, on the record. (Court Reporter Burt Sulzer.) (Frullo, Veronica) (Entered: 11/18/2004)
11/18/2004		(Court only) ***Motions terminated: <u>54</u> Letter MOTION in Limine filed by John Robert Zellner,, <u>48</u> First MOTION in Limine filed by State of New York,, John Does 1-10,, New York State Police Department,, Robert G. Summerlin,, Major Weber,, (Frullo, Veronica) (Entered: 11/18/2004)
11/18/2004	③	Minute Entry for proceedings held before Sandra L. Townes : Jury Selection held on 11/15/2004. Case called. Counsel for all sides present. Jury selection ordered & begun. Voir Dire begins. Jury selected and sworn. (Court Reporter Burt Sulzer.) (Frullo, Veronica) (Entered: 11/18/2004)
11/18/2004	③	Minute Entry for proceedings held before Sandra L. Townes : Jury Trial held on 11/15/2004. Case called Counsel for all sides present. Evidence entered and continued. (Court Reporter Burt Sulzer.) (Frullo, Veronica) (Entered: 11/18/2004)

11/18/2004	<u>Q</u>	Minute Entry for proceedings held before Sandra L. Townes : Jury Trial held on 11/16/2004. Case called. Counsel for all sides present. Evidence entered & continued. (Court Reporter Burt Sulzer.) (Frullo, Veronica) (Entered: 11/18/2004)
11/18/2004	<u>Q</u>	Minute Entry for proceedings held before Sandra L. Townes : Jury Trial held on 11/17/2004. Case called. Counsel for all sides present. Evidence entered & continued. (Court Reporter Burt Sulzer.) (Frullo, Veronica) (Entered: 11/18/2004)
11/18/2004	<u>Q55</u>	Letter from Frederick Brewington to Judge Townes Regarding Opposition to Defendants' 50(a) Motion. (Brewington, Fredcrick) (Entered: 11/18/2004)
11/20/2004	<u>Q56</u>	Second MOTION to Dismiss <i>letter in support of and in reply to plaintiff's letter opposition</i> by all defendants. (Leahy, Anne) (Entered: 11/20/2004)
11/24/2004	<u>Q66</u>	JURY VERDICT. (Guzzi, Roseann) (Entered: 01/26/2005)
11/29/2004	<u>Q57</u>	ORDER of SUSTENANCE (Jackson, Ramona) (Entered: 11/29/2004)
11/29/2004	<u>Q58</u>	NOTICE of Appearance by Frederick K. Brewington on behalf of John Robert Zellner (Jackson, Ramona) (Entered: 11/29/2004)
11/30/2004	<u>Q59</u>	ORDER of SUSTENANCE. Signed by Judge Sandra L. Townes on 11/26/04. (Jackson, Ramona) (Entered: 11/30/2004)
12/17/2004	<u>Q60</u>	MOTION for Judgment NOV <i>or new trial and to dismiss punitive damages</i> by all defendants. (Attachments: # <u>1</u> # <u>2</u>)(Leahy, Anne) (Entered: 12/17/2004)
01/13/2005	<u>Q61</u>	Letter from Frederick K. Brewington to Honorable Sandra L. Townes Regarding Plaintiff respectfully requests permission to file a single oversized brief of 35 pages, which will include Plaintiff's Response to Defendants' Rule 50(b) motoin together with Plaintiff's Rule 59 Motion. (Brewington, Frederick) (Entered: 01/13/2005)
01/14/2005	<u>Q62</u>	Letter from Anne C. Leahy, Asst. Atty. Genl. to Hon. Sandra L. Townes Regarding date for defendants' opposition and reply. (Attachments: # <u>1</u>)(Leahy, Anne) (Entered: 01/14/2005)
01/14/2005	<u>Q</u>	ORDER re <u>61</u> Letter: application granted. Plaintiff's counsel is directed to have the evidence entered at trial hand delivered to Chambers. SO Ordered Judge Sandra L. Townes on 01/14/05. (Frullo, Veronica) (Entered: 01/14/2005)
01/14/2005	<u>Q</u>	ORDER re <u>62</u> Letter: application granted. So Ordered Judge Sandra L. Townes on 01/14/05. (Frullo, Veronica) (Entered: 01/14/2005)
01/15/2005	<u>Q63</u>	NOTICE by John Robert Zellner <i>Plaintiff's Notice of Motion Pursuant to Rule 59</i> (Brewington, Frederick) (Entered: 01/15/2005)
01/15/2005	<u>Q64</u>	RESPONSE to Motion re <u>60</u> MOTION for Judgment NOV <i>or new trial and to dismiss punitive damages Plaintiff's Memorandum of Law in</i>

		<i>Opposition to Defendants' Rule 50(b) Motion and in Support of Plaintiff's Rule 59 Motion for a New Trial</i> filed by John Robert Zellner. (Attachments: # <u>1</u> Exhibit Exhibit A, Jury Verdict Sheet# <u>2</u> Exhibit Exhibit B, Proposed Jury Verdict Sheet# <u>3</u> Exhibit Exhibit C, Letter of November 19, 2004)(Brewington, Frederick) (Entered: 01/15/2005)
01/26/2005	<u>65</u>	JUDGMENT dated 11/26/04. Jury verdict. (Signed by Robert C. Heinemann, Clerk of Court by Veronica Frullo on 11/26/04) (Guzzi, Roseann) (Entered: 01/26/2005)
01/27/2005	<u>67</u>	First MOTION to Stay <i>enforcement of judgment pursuant to Rule 62(b), plus amended Rule 50(b) and Rule 59 Notice of Motions</i> by all defendants. (Leahey, Anne) (Entered: 01/27/2005)
01/28/2005	<u>68</u>	Letter from Frederick K. Brewington to Honorable Sandra L. Townes Regarding Plaintiff's Response to Defendants' Request For A Stay Of Execution On The Judgment. (Brewington, Frederick) (Entered: 01/28/2005)
02/01/2005	<u>67</u>	ORDER granting <u>67</u> Motion to Stay. The application is granted. Signed by Judge Sandra L. Townes on 01/31/05. (Frullo, Veronica) (Entered: 02/01/2005)
02/01/2005	<u>68</u>	ORDER, re <u>68</u> Letter, granting plaintiff's request that their time to file a fee application be stayed until after a final decision on the post trial motions . Signed by Judge Sandra L. Townes on 01/31/05. (Frullo, Veronica) (Entered: 02/01/2005)
02/09/2005	<u>69</u>	Letter from Anne C. Leahey, AAG to Hon. Sandra L. Townes Regarding approval of 30-page brief. (Leahey, Anne) (Entered: 02/09/2005)
02/11/2005	<u>70</u>	MOTION for Judgment NOV (<i>reply papers</i>), <i>for a new trial (reply papers)</i> , and <i>in opposition to plaintiff's motions</i> by all defendants. (Attachments: # <u>1</u>)(Leahey, Anne) (Entered: 02/11/2005)
02/15/2005	<u>69</u>	ORDER, re <u>69</u> Letter, granting defts' request to submit a 30 page reply brief. (Signed by Judge Townes on 02/10/05) (Frullo, Veronica) (Entered: 02/15/2005)
03/01/2005	<u>71</u>	Letter from Frederick K. Brewington to The Honorable Sandra L. Townes Regarding Plaintiff's Reply to Defendant's Rule 59 Response. (Brewington, Frederick) (Entered: 03/01/2005)
03/08/2005	<u>72</u>	RESPONSE in Opposition re <u>70</u> MOTION for Judgment NOV (<i>reply papers</i>), <i>for a new trial (reply papers)</i> , and <i>in opposition to plaintiff's motions Plaintiff's Reply Memorandum of Law in Oppositon to Defendants' Response to Plaintiff's Rule 59 Motion</i> filed by John Robert Zellner. (Brewington, Frederick) (Entered: 03/08/2005)
03/16/2005	<u>71</u>	ORDER, re <u>71</u> Letter, granting plaintiff's request that plaintiff's reply to deflt's memorandum of law in opposition to plaintiff's Rule 59 motion be filed by 03/09/05. (So Ordered Judge Townes, 03/11/05) (Frullo, Veronica) (Entered: 03/16/2005)

07/15/2005	<u>73</u>	Letter from Frederick K. Brewington to Hon. Sandra L. Townes Regarding inquiring if there is any further information required by the Court from either party following the Jury Trial.. (Brewington, Frederick) (Entered: 07/15/2005)
07/22/2005	<u>74</u>	Letter, dated. 7/21/05, from Veronica Frullo, Case Manager, to Frederick Brewington advising plaintiff's counsel that no further information is required by the Court at this time. (Frullo, Veronica) (Entered: 07/22/2005)
09/06/2005	<u>75</u>	MEMORANDUM & ORDER: As the Defendants are entitled to qualified immunity on the false arrest and malicious prosecution claims, and as Plaintiff has failed to demonstrate the existence of any errors requiring a new trial, Defendants' motion for judgment as a matter of law is granted and Plaintiff's claims are dismissed. Ordered by Judge Sandra L. Townes on 09/02/05. (Frullo, Veronica) (Entered: 09/06/2005)
11/01/2005	<u>76</u>	JUDGMENT Pltff. take nothing of the deft's; that deft's motion for judgment as a matter of law is GRANTED; and that pltff's claims are DISMISSED.. Ordered by Judge Clerk of Court on 10/31/05. (Jackson, Ramona) (Entered: 11/01/2005)
11/16/2005	<u>77</u>	NOTICE OF APPEAL as to <u>76</u> Judgment, <u>75</u> Order on Motion for Judgment NOV, by John Robert Zellner. Filing fee \$ 255.00, receipt number 018152. (McGee, Mary Ann) (Entered: 11/21/2005)
11/21/2005	<u>78</u>	Electronic Index to Record on Appeal sent to US Court of Appeals re <u>69</u> Letter, <u>58</u> Notice of Appearance, <u>63</u> Notice (Other), <u>50</u> Proposed Jury Instructions, <u>56</u> Second MOTION to Dismiss <i>letter in support of and in reply to plaintiff's letter opposition</i> , <u>46</u> Scheduling Order, <u>64</u> Response to Motion,, <u>53</u> Proposed Jury Instructions, <u>77</u> Notice of Appeal, <u>52</u> Proposed Voir Dire, <u>73</u> Letter, <u>76</u> Judgment, <u>47</u> Status Conference,, <u>59</u> Order, <u>51</u> Proposed Voir Dire, <u>65</u> Judgment, <u>66</u> Jury Verdict, <u>71</u> Letter, <u>61</u> Letter,, <u>68</u> Letter, <u>1</u> Complaint,, <u>72</u> Response in Opposition to Motion,, <u>55</u> Letter, <u>74</u> Letter, <u>57</u> Order, <u>67</u> First MOTION to Stay enforcement of judgment pursuant to Rule 62(b), plus amended Rule 50(b) and Rule 59 Notice of Motions, <u>62</u> Letter, <u>70</u> MOTION for Judgment NOV (<i>reply papers</i>), for a new trial (<i>reply papers</i>), and in opposition to plaintiff's motions, <u>75</u> Order on Motion for Judgment NOV,, <u>60</u> MOTION for Judgment NOV or new trial and to dismiss punitive damages, <u>48</u> First MOTION in Limine, <u>49</u> Affidavit, <u>54</u> Letter MOTION in Limine For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. (McGee, Mary Ann) (Entered: 11/21/2005)
12/06/2005	<u>78</u>	DESIGNATION of Record on Appeal by John Robert Zellner re <u>77</u> Notice of Appeal (Brewington, Frederick) (Entered: 12/06/2005)
12/07/2005	<u>79</u>	First Supplemental Electronic Index to Record on Appeal sent to US Court of Appeals re <u>78</u> Designation of Record on Appeal For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. (McGee, Mary Ann) (Entered: 12/07/2005)

		12/07/2005)
12/19/2005	<u>79</u>	TRANSCRIPT of Trial held on 11/15/04 AT 10:00 a.m. before Judge Townes. Frederick Brewington appears for Pltff. Anne C. Leahy and John Shields appear for Deft. Court Reporter: Burton Sulzer. (McGee, Mary Ann) Modified on 12/22/2005 (McGee, Mary Ann). (Entered: 12/22/2005)
12/19/2005	<u>80</u>	TRANSCRIPT of TRIAL held on 11/16/04 at 9:50 a.m. before Judge Townes. Court Reporter: Burton Sulzer. Frederick Brewington appears for Pltff. Anne Leahy and John Shields appear for Deft. (McGee, Mary Ann) (Entered: 12/22/2005)
12/19/2005	<u>81</u>	TRANSCRIPT of TRIAL held on 11/17/04 at 9:30 a.m. before Judge Townes. Court Reporter: Burton Sulzer. Frederick Brewington appears for Pltff. Anne Leahy and John Shields appear for Deft. (McGee, Mary Ann) (Entered: 12/22/2005)
12/19/2005	<u>82</u>	TRANSCRIPT of TRIAL held on 11/18/04 at 9:30 a.m. before Judge Townes. Court Reporter: Burton Sulzer. Frederick Brewington appears for Pltff. Anne Leahy and John Shields appear for Deft. (McGee, Mary Ann) (Entered: 12/22/2005)
12/19/2005	<u>83</u>	TRANSCRIPT of TRIAL held on 11/22/04 at 9:30 a.m. before Judge Townes. Court Reporter: Henry Shapiro. Frederick Brewington appears for Pltff. Anne Leahy and John Shields appear for Deft. (McGee, Mary Ann) (Entered: 12/22/2005)
12/19/2005	<u>84</u>	TRANSCRIPT of Proceedings held on 11/23/04 10:30 a.m. before Judge Townes. Court Reporter: Henry Shapiro. Frederick Brewington appears for Pltff. Anne Leahy and John Shields appear for Deft. (McGee, Mary Ann) (Entered: 12/22/2005)
12/19/2005	<u>85</u>	TRANSCRIPT of Proceedings held on 11/24/04 at 9:30 a.m. before Judge Townes. Court Reporter: Henry Shapiro. Frederick Brewington appears for Pltff. Anne Leahy and John Shields appear for Deft. (Entered: 12/22/2005)
12/19/2005	<u>86</u>	TRANSCRIPT of Proceedings held on 11/26/04 at 9:30 a.m. before Judge Townes. Court Reporter: Henry Shapiro. Frederick Brewington appears for Pltff. Anne Leahy and John Shields appear for Deft. (McGee, Mary Ann) (Entered: 12/22/2005)
12/22/2005	<u>87</u>	Second Supplemental INDEX on Appeal transmitted to US Court of Appeals re <u>77</u> Notice of Appeal. (McGee, Mary Ann) (Entered: 12/22/2005)
01/10/2006	<u>88</u>	USCA Acknowledgment for the Second Supplemental <u>77</u> Notice of Appeal filed by John Robert Zellner,. (Gonzalez, Mary) (Entered: 01/10/2006)
05/16/2006	<u>88</u>	Letter requesting that the Court notify Plaintiff's attorneys when the evidence admitted during the trial is ready to be retrieved. by John Robert

	Zellner. (Brewington, Frederick) (Entered: 05/16/2006)
--	--